



The Salisbury Planning Board held its regular meeting Tuesday, August 14, 2007, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

**PRESENT:** Dr. Mark Beymer, Robert Cockerl, Tommy Hairston, Craig Neuhardt, Sandy Reitz, Jeff Smith, Valarie Stewart, Albert Stout, and Diane Young

**ABSENT:** Karen Alexander, Richard Huffman, and Price Wagoner

**STAFF:** Janet Gapen, Preston Mitchell, Diana Moghrabi, and David Phillips

**MEDIA:** Jason Parks, *Access 16*; Mark Wineka, *Salisbury Post*

Dr. Mark Beymer, Chairman, called the meeting to order and offered an invocation. The minutes of the July 24, 2007, meeting were approved with one minor correction. The Planning Board adopted the agenda as published. Dr. Beymer explained the courtesy hearing procedures.

## **OLD BUSINESS**

### **A. Zoning Map Amendments**

Z-08-07      City of Salisbury  
Camp Road Annexation Area  
Approximately 203 acres encompassing 317 parcels .

Request: Establish City Zoning of SINGLE-FAMILY RESIDENTIAL WITH A MANUFACTURED HOME OVERLAY on lands recently annexed by the City of Salisbury.

- Explanation of Procedure
- Staff Presentation
- Courtesy Hearing
- Board Discussion
- Statement of Consistency and Motion on Map Amendment

Preston Mitchell made a staff presentation. Three out of four of the recently annexed areas already had established city zoning; this area had county zoning. Customarily the city establishes "like" zoning unless the county zoning is different from what is on the ground. This area has developed residentially.

The petition is not inconsistent with the growth plan. Those lots on the east side of Steven Drive would be affected if vacated for more than 180 days. The four lots in question would be legal non-conforming. Staff recognizes that those four parcels fall within the

legal, non-conforming status, but staff was trying to draw some consistency in the zoning lines by using Steven Drive as a dividing line.

Existing County Zoning: MHP district Manufactured Home Park, MHP.

*(1) This district is established in order to provide for the proper location and planning of manufactured home parks, excluding family manufactured home parks. Special requirements shall be applied to these parks which shall specify improvements to the park to ensure the public health, safety and welfare of the park inhabitants as well as the surrounding area. Designation of an area as being in the MHP district provides design and appearance criteria which are more appropriate for rental manufactured housing and/or spaces, including vinyl or similar skirting, clustering of units and reduced road construction standards. These standards are not applicable to manufactured homes and/or lots located outside a MHP district. This district requires site plan review for development of manufactured home parks by the board of commissioners. This review is required because the use may have particular impacts on the surrounding area and the county as a whole. Approval of the site plan may include the addition of fair and reasonable standards to the site plan. No other uses allowed in the MHP district shall require site plan approval by the board of commissioner unless expressly required by this chapter.*

*(2) Manufactured home parks, existing at the effective date of this chapter and registered as provided by the county mobile home park ordinance are zoned as conforming uses, even though they may not meet the development standards of this chapter. Expansions of the existing registered manufactured home parks or construction of new manufactured home parks, approved under the county mobile home park ordinance may be initiated or continue unless no work has begun within six (6) months of the date of issuance of a "permit to develop" under that ordinance, or work has ceased for a period of twelve (12) months.*

*(3) Other manufactured home parks which meet the intent of this section by having improvements similar to the requirements of this chapter may also be zoned as conforming uses. However, all expansions of any manufactured home park, existing at the effective date of this chapter shall meet all requirements of this chapter unless expressly provided otherwise. Development standards for a manufactured home park are listed in article III.*

*Commercial, Business, Industrial (CBI). This zone allows for a wide range of commercial, business and light industrial activities which provide goods and services. This district is typically for more densely developed suburban areas, major transportation corridors, and major crossroads communities. However, this district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.*

Proposed City Zoning:*R-12-MH district, Single family-12/manufactured home residential district (R- 12 MH)*

The single family-12/manufactured home R-12 MH district is primarily for detached single-family dwellings and Class AA [manufactured homes] and their customary accessory buildings or structures and to establish areas for a density of development relative to the lot size requirements of this district.

*Single-family/15 residential district (R-15)*

The single family-15 residential (R-15) district is primarily for detached single-family dwellings and their customary accessory buildings or structures in areas when either water supply or sewage disposal is primarily the responsibility of the individual (i.e., either public water supply or public sewage disposal system or the equivalent is not readily available) and to establish areas for a density of development relative to the lot size requirements of this district.

*Mobile home district (MH)*

The mobile home district shall be an additional zone designation to any of the zoning districts of the zoning ordinance. That portion of any zone district to which the mobile home district designation shall apply shall be delineated on the zoning map. Any area so designated and delineated shall be a contiguous area of at least 15 gross acres including streets, rights-of-way, public lands, and privately owned land. Any extension of an existing MH district shall be a minimum of one-third the size of the existing MH district or 15 acres, whichever figure is smaller.

Staff recommends that the properties be zoned as proposed based on several factors:

1. The area due north of the prison and east of Steven Drive is primarily Class AA (doublewide) and stick-built homes. This is the "newest" section of the petition area and has not developed with Class A (singlewide) homes. In addition, the lot sizes in this section are smaller and fall within the 12,000 square-foot range.
2. The area west of the prison and east of Grants Creek has a greater mixing of Class A, Class AA, and stick-built homes. The predominance of the Class A (singlewide) homes leads staff to recommend the Mobile Home Overlay in lieu of the Manufactured Home base district. In addition, the lots are larger in this section and better conform to the R-15 (min. 15,000 sq ft) single-family configuration.

This annexation area is located within the secondary growth area of the 2000 Strategic Growth Plan—that portion of the urban growth area where urban level services can be provided by the City, but on a lower priority basis than in the primary growth area. The overall objective of the Salisbury 2000 Strategic Growth Plan is to allow for continued economic development while maintaining and enhancing the area's environment and quality of life.

The area in question is located within the Salisbury Vision 2020 Comprehensive Plan's secondary growth area. Since this zoning petition is not a private citizen petitioning for a zone change to allow for some future development, many of the "Vision 2020" growth and development policies do not apply to this situation. The area in question, which was annexed into the City of Salisbury effective June 30, 2007, is primarily built-out in a residential manner with a handful of vacant tracts spread throughout. The city's physical growth by annexation is a legislative, executive, and multi-departmental decision that includes but also extends beyond the land management and planning department.

Staff recommends that the petition is not inconsistent with City's Growth and Comprehensive Plans and recommends approval of the petition.

*Those speaking in opposition:*

**Javis Arey** of 625 Catawba Road told Planning Board that he is a Salisbury-Rowan County native. He and two others purchased and developed each lot in the "red" area on the map (referring to the staff presentation) years ago, which is the left side of Camp Road. As they developed by sections, covenant restriction agreements were placed on each section. These covenant restriction agreements lasted for 20 years with an automatic 10-year extension providing the property owners did not want any changes; a request for changes has never happened. The original covenant restrictions agreements are still in place.

Mr. Arey personally owns, in this development, 32 home sites; 31 are rented and he and his son have one vacant lot. Some of those home sites have personal ownership; but, most are rented as lots only. The mobile home is a separate tax base. Once City zoning is established, it puts landowners in a "long-term closed session." He sees this proposal as a tax liability. What will property look like in 30 years? Mr. Arey asked if the city limits were at Grants Creek. Preston Mitchell will make an appointment to talk to Mr. Arey in more detail.

Mark Beymer invited Mr. Arey to engage in a little dialogue with staff and Planning Board for clarification. Mr. Arey said that the proposed zoning will handicap the present owners and the future property owners to the point that most of this land will be lying vacant because of the restrictions.

Preston said that everything west of Steven Drive has the Mobile Home Overlay zoning that would allow for the singlewide, doublewide, as well as stick built homes to continue. The zoning does not affect covenants and restrictions; that is a private contract. There is no minimum square footage on stick-built homes. The R-12 MH would not allow singlewide homes.

**Drew Arey** of 6145 Bringle Ferry Road told Planning Board that he rents lots that he owns "to singlewides or doublewides." He would like to see his property left with the original development and wants to place singlewides or doublewides on his lots.

He had questions about the use of vinyl underpinning; he understands that the City has tougher restrictions about underpinning than the County. Staff responded that this is correct that the City does not allow vinyl underpinning. This would be a separate request to change the text of the city code.

**William Henry Smith** of 635 Earnhardt Road said he owns property across the creek. (37 acres) Three-fourths of the property is in a floodplain. He has been charged full value on his taxes for this property. Where is the property line? It should put on the centerline of Grants Creek. He asked to be included in the meeting with Mr. Arey and Preston Mitchell.

Preston Mitchell stated that the City knows where property lines are and he would be happy to look up the annexation surveys. (According to state law, the land was surveyed for annexation.)

*Those speaking in favor:* None

*Board Discussion:*

Sandy Reitz understands Mr. Arey's concerns about the lots on the east side of Steven Drive. (They would become legal non-conforming until abandoned for a six-month period) It looks like a confusing zoning; there is a potential for this area to be built larger than the other side and it may not be an appropriate combination.

Albert Stout said class A or AA is not his concern. His concern is that we will impose culture shock by breaking up a mobile home as if it is a permanent fixture like a manufactured or stick built home. He believes it is unreasonable to require brick foundations. (This is a separate issue.)

Diane Young clarified that existing mobile homes with vinyl underpinning can continue and new mobile homes would require replacement underpinning.

Mark Beymer said he was on the fence about the zoning line (four lots), and whether it should remain with the same zoning. It should perhaps be the property line immediately to the east of the street. (All of the lots—at least down to Camp Road which abut to Steven Drive.) Preston Mitchell drew the line for Dr. Beymer to view on the presentation map.

Jeff Smith said he is inclined to send Z-08-07 to committee. He asked what the average lot size was east of Steven Drive. Preston answered that the mean west of Steven Drive to Grants Creek was about 16,000 square feet; east side the mean was right at 12,000 square feet.

Mark agreed to send Z-08-07 to committee. Albert Stout made a MOTION to send Z-08-07 to a committee that will report back to Planning Board at the August 28, 2007, regular Planning Board meeting. Craig Neuhardt seconded the motion. The motion was carried (8-1) with Sandy Reitz voting NAY. All others voted AYE.

Legislative Committee B (Sandy Reitz, Chair) will meet Friday, August 17, at 8 a.m. on the second floor at City Hall. Dr. Mark Beymer will stand in for Albert Stout who will be unable to attend the meeting. Jeff Smith requested that the developer bring the covenants and restrictions to the meeting.

**Z-09S-07      Brian & Jocelyn Moore**  
530 West D Avenue  
Tax Map - Parcel 061-2017

A request to rezone 530 West D Avenue from SINGLE-FAMILY RESIDENTIAL zoning to SPECIAL DUPLEX RESIDENTIAL zoning so as to permit the following uses: 1) All uses permitted in a single-family residential district (R-8) unless otherwise authorized to a different extent by a specific permitted use reference or stipulation for this district, and 2) Child day care facilities, in accordance with the procedures outlined in section 7.01(5) (c) and approved in the special use permit. [H].

- Explanation of procedure
- Swearing-in of those testifying
- Staff Presentation
- Courtesy Hearing
- Board discussion
- Statement of Consistency and Motion on Map Amendment
- Findings of Fact
- Motion on Special Use District Permit

Preston Mitchell, Brian Moore, Jocelyn Moore and Marianne Summey were sworn in. Preston Mitchell made the staff presentation.

#### Case Background

This case, Z-09S-07, needs to be cross-referenced to Z-06-07 because Z-06-07 was withdrawn at the City Council public hearing prior to being denied.

As mentioned in the Z-06-07 report, the petitioner disclosed the reasons for rezoning the property, but due to the legislative general rezoning process all uses in the R-6 (Two-Family) district had to be considered. At the City Council public hearing, the petitioners again disclosed their desire to expand their existing daycare. City Council commented that they were concerned about the implications of the other allowable uses in the R-6 district and would not be able to support a general rezoning to the R-6 district. The petitioner withdrew his request at the public hearing and stated that he would return to Planning Board and City Council with a request for a Special R-6 district to limit out all objectionable uses.

Proposed Zoning:

The Special aspect of this district is identical to R-6 district, except that a Special Use Permit is required, which may allow one or more permitted uses that are permitted by right in the R-6 district. City Council may place additional provisions or restrictions on the Special Use Permit.

**SPECIAL USE DISTRICT AND PERMIT**

The Special Use District (S-District) rezoning process is a conditional zoning tool that must be voluntarily petitioned for by the property owner. This method of zoning allows the petitioner to seek specific uses within the underlying base zoning district. The S-District process requires two actions: 1) Amending the official City Zoning Map, and 2) Issuance of a Special Use District (S-District) Permit that is linked in perpetuity to the rezoning and runs with the land. In addition, the City Council has the authority to impose reasonable and appropriate conditions on the property that would run with the land. These conditions and the associated permit can be amended or revoked by the Council at any time in the future subject to specific criteria.

The evaluation and approval of the Special Use Permit must be governed by quasi-judicial proceedings, which are based upon the sworn testimony and evidence presented at the hearing relevant to the following:

The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and

The proposed plan as submitted will be visually and functionally compatible to the surrounding area; and

The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.

This petitioner is seeking the Special R-6 district to specifically permit the use of Day Care Facility but prohibit all other R-6 uses inconsistent with the current R-8 (Single-Family) district.

Within the Two-Family Residential District (R-6) the following uses shall be permitted and within the Special Two-Family Residential District (R-6-S) the following uses may be permitted:

All uses permitted in a single-family residential district (R-8) unless otherwise authorized to a different extent by a specific permitted use reference or stipulation for this district.

- Child day care facilities, in accordance with the procedures outlined in section 7.01(5)(c) and approved in the special use permit. [H]

*Those speaking in opposition:* None

*Those speaking in favor:*

**Jocelyn Moore** of 530 D Avenue stated she is only interested in raising the number of children she can provide care for from 8 to 15.

**Brian Moore** of 530 D Avenue stated that the special use permit will provide for them exactly what they wanted. He said they hoped that this would be adopted.

**Marianne Summey** of 611 D Avenue said this is what the neighborhood wants. It took some working through the process, but they are in favor of the Moores having more children in their care; they just need to protect the neighborhood from some other uses in R-6. She would recommend that the Planning Board and City Council adopt both parts of the proposal.

*Board Discussion*

Craig Neuhardt said this sounds like a great solution; he appreciates the Moores outlasting the system.

Diane Young made a MOTION that the Planning Board finds and determines that rezoning petition Z-09S-07 is consistent with the goals, objectives, and policies of the Strategic Growth Plan and the Vision 2020 Comprehensive Plan, and hereby recommends Approval. The motion was seconded with all members voting AYE. (9-0)

Preston Mitchell asked to make a clarification—the special use permit that is associated with this zoning is specifically associated with this zoning. The daycare facility that they are seeking will still require another special use permit.

Jeff Smith continued with the findings of fact, “That the proposed use or development of the land will not materially endanger the public health or safety and will not substantially injure the value of adjoining or abutting property;”

“That the proposed use or development of the land will be visually and functionally compatible with the scale, bulk, coverage, and character of the area or neighborhood in which it is located. Based on these two findings of fact Planning Board recommends approval of Z-09S-07 Special Use Permit allowing all the uses under R-8 as well as a child daycare facility and all the things that fall under that which were referenced out of the ordinance.” Sandy Reitz seconded the motion with all members voting AYE. (9-0)

This will go before City Council Tuesday, August 21, 2007. There will be a Public Hearing at that meeting.

**B. Group Developments****G-10-07****Lion's Share Credit Union**

850 Harrison Road

Tax Map 450, Parcel P/O 0070000001, Zoning M-1

Mr. George Morgan of Summit Developers, Inc. submitted the application for the construction of a 6,030 square-foot banking facility to be located at 850 Harrison Road. All zoning criteria have been met. The TRC recommends approval as submitted.

David Phillips made a staff presentation. This comes as a group development because they exceeded 50 parking spaces. They are subdividing a portion of property which is approximately 1.864 acres off of a larger tract of land. There will be a driveway access off Harrison Road that DOT will require to be a right-in and right-out only, and another driveway access on Executive Drive.

The site plan and the subdivision will serve as a preliminary plat that will be used until sewer is brought to the property. Once the utilities are brought to the property, the final plat will go to City Council.

Valarie Stewart made a MOTION to approve G-10-07. Albert Stout seconded the motion with all members voting AYE. (9-0)

**G-11-07****Rufty Holmes Senior Center**

1120 S. Boundary Street

Tax Map 018, Parcel 210, Zoning M-1

Mr. Dan Norman of Ramsay, Burgin, Smith Architects submitted the application for the construction of a 4,118 square-foot fitness addition to the existing facility located at 1120 S. Boundary Street. All zoning criteria have been met. The TRC recommends approval to the Planning Board as submitted.

The existing structure is 14,000 square feet. They are adding potential parking if needed. There is a new dumpster location with complete screening. There will be additional landscaping in the parking area that will bring it up to code.

*Those speaking in opposition:* None

*Those speaking in favor:*

**Rick Eldridge, Executive Director of Rufty Holmes Senior Center**, supports the staff recommendation for approval. This is something that is long overdue—an opportunity to serve more of our older adults in our community, and try to keep them healthy and as independent as possible for as long as possible.

Jeff Smith made a MOTION to approve G-11-07. Sandy Reitz seconded the motion with all members voting AYE. (9-0)

### C. Zoning Text Amendments

T-01-07            Amendments to Article IX, Signs  
                         Petitioner, City of Salisbury

Request to amend Article IX, Signs, of the Salisbury Zoning Code by making the following changes to the sign ordinance:

Sec. 9.05(3):            Signs Permitted by District

Sec. 9.05(8)(b.6):      Signs Permitted by District

Sec. 9.06(1A, 1C):      Special Sign Provisions

The Planning Board Legislative Committee A convened August 1, 2007, and recommends that only three of the original five requests (from the May 8, 2007 Planning Board meeting) be considered at this meeting today. Significant discussion ensued on the electronic signs and time constraints prevented the committee from discussing non-conforming signs.

1. Sec. 9.05(3)(l)        Signs Permitted by District, Downtown (B-5) district

This amendment is for the use (and re-use) of historic signs within the downtown local historic and zoning district. If adopted, all such signs would be required to receive a Certificate of Appropriateness by the Historic Preservation Commission (HPC).

Historic signs, whether renovations of architectural artifacts, adaptive re-use of existing signs or authentic replications based on photographic evidence or other documentation, shall be allowed in the Downtown local historic district provided that:

All historic signs are subject to design review and issuance of a Certificate of Appropriateness by the minor works committee of the Historic Preservation Commission following criteria prescribed by the design guidelines for commercial properties.

The number of historic signs may not exceed the total number allowed for a property within the district.

The size of historic signs may vary depending on the historical accuracy of the renovation or replication but shall not exceed 50 square feet by right. A special use permit shall be required for any historic sign exceeding 50 square feet. (Signs painted on the downtown buildings are considered murals.)

Historic signs may be located on the property in a manner consistent with historical evidence or other documentation

Historic signs may be lighted in a manner consistent with historical evidence or other documentation.

2. Sec. 9.05(8)(b.6) Signs Permitted by District  
Church Signs in residential districts

There were no changes from the original request.

3. Sec. 9.06(1A, 1C) Special Sign Provisions  
Group Development Signs

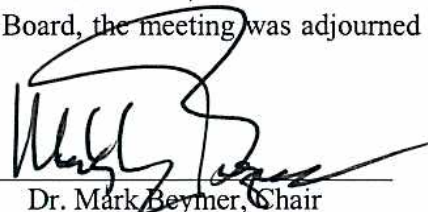
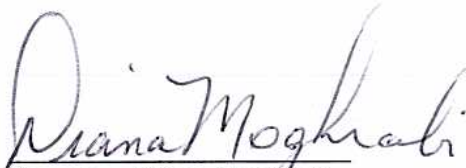
This proposal is in response to the U.S. Supreme Court finding that the content of certain signage may not be regulated.

The MOTION which came from the committee to support these three text amendments was approved by Planning Board. (9-0)

#### OTHER BOARD BUSINESS

Chairman Mark Beymer stated that the Land Development Ordinance will probably be coming from City Council to the Planning Board later this month for review. He and Diane Young will request 60-90 days for Planning Board review. A special committee (Committee C) will be formed of those members who can dedicate the time to the study of the ordinance and have the flexibility to attend meetings that will most certainly be required. This proposes to be an intensive commitment. Dr. Beymer promised not to wordsmith the ordinance but to review with intense scrutiny.

There being no further business to come before the Planning Board, the meeting was adjourned at 5:49 p.m.

  
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Dr. Mark Beymer, Chair  
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Secretary, Diana Moghrabi

\_\_\_\_\_  
Diane Young, Vice Chair

